UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,380	01/22/2001	Fumio Nagashima	1080.1045CIPD3	1046

21171   7590   05/12/2008
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
VO, TED T

ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
05/12/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *13 February 2008*.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *53-55,58,60 and 61* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *53-55,58,60 and 61* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the amendment filed on 02/13/2008.

       Claims 53-55, and 58, 60-61 remain pending in the application.

Response to Arguments

2.   This is in response to the Applicants' Argument/Remarks filed on 02/13/2008.

       With regard to the issue, Double Patenting Rejection, the Applicants' statement in this

issue is considered. The rejection for Double Patenting remains maintained until a filing TD is

approved.

       With regard to the arguments to the rejection under Maxfield and the rejection under AT

&T, it appears that the arguments are that both references are silent on "data related to <u>a non-</u>

<u>object-oriented software</u> as existing software having a graphical user interface".

       Examiner disagrees: Applicants' arguments fail under 1.111 (b) and (c). In the remarks,

Applicants fail to discuss the patentability of the added limitation, or patentably point out what

the claimed subject is different from the Maxfield and AT&T. The arguments are only a mere

generic assertion. With the newly added, "a non-object-oriented software" in the above claimed

phrase, Applicants' argument is a mere assertion that the claims will provide a benefit of the data

and the component method together in combination with existing software serve as one object to

the objects. It should be noted that, the limitations in the claims recited only <u>abstract concepts</u>

that cannot render patentability. These abstract concepts used in the limitations cannot be

limited from the disclosures with the same matters.

On the other hand, the claims are generically read as an object oriented component

accessible by other objects. That component includes data related to a non-object-oriented

software as existing software having a graphical user interface, and a method as a program code

to control the computer system. The control is via message in another object, etc.

With regard to the rejection under Maxfield, it should be noted that accessibility by other

objects is not new but programming property. The generic claims read on the acts in Maxfield

for using a dialog to read existing files. As noted that, Applicants amended "data related to as

existing software having a graphical user interface" into "data related to a non-object-oriented

software as existing software having a graphical user interface". However, Applicants fails to

point out any patentable difference from "existing software". In the reference, the existing files

are defined as data and variables. These data and variables are anything of either objects or

conventional software because they are just files and data (see p. 3: Object is circle, and data is

sandwiched between two paralleled lines). The data cannot make it become patentable

difference. The data and variables files can serve as the data to any existing software including

non-oriented software.

With regard to the rejection under AT&T, as noted in the rejection, the data is interpreted

as data stored in a database as seen in Figure 1.3, p.3, of the AT&T component builder. In p. 9,

Figure 1.2, AT&T shows old software together with YEAST for creating new components,

where a YEAST component (in boldface) with old software can serve as one via the "method

call". Together with Figure 1.2, in p. 14 for describing the Figure 1.3, AT&T mentioned that the

new components that are built will use the existing components of other software. The

descriptions in p. 14 clearly suggest that old components and new component are gluing

together. Therefore, with the showing Figure 1.2, it suggests that new component and old

component are severed as one using the process call. As noted, data is only data that cannot be

"object-oriented".

Double Patenting

3.   Claims 53-55, and 58, 60-61 are rejected on the ground of nonstatutory double patenting

over claims 1 or 2 of U. S. Patent No. **6,557,165 B1**. Although the conflicting claims are not

identical, they are not patentably distinct from each other because: See previous office action.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

5.   Claims 53-55, 58, and 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Kirshnamurthy, "Practical Reusable Unix Software", John Wiley & Sons, Inc, copyright

1995 AT&T (hereinafter: AT&T).

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per claim 53: AT&T discloses,

"A computer readable storage medium storing an object oriented programming

component accessible by objects in <u>a computer system</u>, comprising:

data related to <u>a non-object-oriented software</u> as existing software having a graphical user

interface (Interpret as data/components of old software (this software is also having GUI) storing

in the computer storage/database as shown in Figure 1.3. For example, using a *watched* and *lilast*

shown in p. 17, sec. 1.5.3) *(GUI), <u>the data including GUI identification and GUI event</u>*

<u>information as GUI data for the existing software with the GUI in the computer system</u> (See

Fig. 1.3, p. 13), *and*

as a component method <u>for the existing software</u>, a program code to (i.e. existing and

generated components)

control <u>the</u> computer system according to a process of <u>receiving a message issued in</u>

<u>another object</u> (See Figure 1.2: i.e. receive "New libast"/"Fixed libast"), *and driving the*

existing software <u>by</u> issuing <u>a GUI</u> event of the existing software <u>to the existing software</u>,

based upon the <u>GUI data of the</u> existing software in response to <u>the</u> received message (See all

events come out at the Rebuilt component, and refer to the Figure 1.3, for a GUI that is used to

control receiving and driving the existing software by such GUI events),

wherein the data and the component method together in combination with the existing

software serve as one object to the objects (i.e. see p, 14, last paragraph: component builder/new

components).

With the existing software and data stored in the database that has a graphical interface

together with YEAST, AT&T does not express *data related to <u>a non-object-oriented software</u> as*

existing software.

It is obvious to an ordinary in the art at the time of filing to use data as of "existing

software", as from any data calls to other software including ***<u>non-object-oriented software</u>,***

because data and variables are only symbols that are independent from software semantic, where

the adding of ***<u>a non-object-oriented software</u>*** merely as changes in shape, or making separable,

or as making adjustable of a component that cannot make the claim patentable over the

reference/prior art (In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) , In re Dulberg, 289

F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961), In re Stevens , 212 F.2d 197, 101 USPQ 284

(CCPA 1954),

Therefore, it is obvious to use data in the component as parameters for connecting with its own

software or other software as an adjustment for conforming to the programming requirement.

<u>As per claim 54</u>: AT&T discloses,

The computer readable storage according to claim 53, wherein said component further

includes a message for informing other objects that the GUI event of the existing software is

issued. See Figure 1.2, and further see sec 9, starts p. 247 and Figure 10.2 in p 279 for event handling.

As per claim 61: AT&T discloses, ***The computer readable storage medium according to claim 53, wherein the GUI event to the existing software is issued through a GUI manager of the computer system*** (see Figures 1.2 and 1.3, where Figure 1.3 is a GUI.

As per claim 55: Regarding limitation, Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 58: Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 60: Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth Claims 53-54, 61.

6.   Claims 53-55, 58, and 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maxfield, "Designing With Objects", MacTech, 1991.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per claim 53: Maxfield discloses,

"A computer readable storage medium storing an object oriented programming component

accessible by objects in a computer system, comprising:

data related to **<u>a non-object-oriented software</u>** *as existing software having a graphical user*

interface (Interpret as existing files) *related to existing software having a graphical user*

interface (GUI) ('Dialog Box'), *the data including GUI identification and GUI event*

information as GUI data for the existing software with the GUI in the computer system (See

Diagram 2, p. 3, an SFGetFile Dialog. See p. 5, second paragraph, e.g. 'selected file'), *and*

as a component method (Interpret as an issuing arrow) *for the existing software, a program*

code to control the computer system according to a process of receiving a message issued in

another object, and driving the existing software by issuing a GUI event of the existing

software to the existing software, based upon the GUI data of the existing software in response

to the received message, wherein the data and the component method together in combination

with the existing software serve as one object to the objects (See Diagrams 2-4, p. 3-4, Diagram

5, p. 5 and associated descriptions).

Maxfield does not address existing files which have data and variables as being *related to*

<u>a non-object-oriented software</u> *as existing software*.

It is obvious to an ordinary in the art at the time of filing to use data as of "existing files",

as from any data calls to other software including ***<u>non-object-oriented software</u>***, because data

and variables are only symbols that are independent from software semantic, where the adding of

<u>a non-object-oriented software</u> merely as changes in shape, or making separable, or as making

adjustable of a component that cannot make the claim patentable over the reference/prior art (In

re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) , In re Dulberg, 289 F.2d 522, 523, 129

USPQ 348, 349 (CCPA 1961), In re Stevens , 212 F.2d 197, 101 USPQ 284 (CCPA 1954),

Therefore, it is obvious to use data in the component as parameters for connecting with

its own software or other software as an adjustment for conforming to the programming

requirement.

As per claim 54: Maxfield discloses,

The computer readable storage according to claim 53, wherein said component further

includes a message for informing other objects that the GUI event of the existing software is

issued. (See Diagrams, refer to the arcs, and see p.1-2, sec. 1 Messages – e.g. ACK/NAK).

As per claim 61: Maxfield discloses, *The computer readable storage medium according to*

claim 53, wherein the GUI event to the existing software is issued through a GUI manager of

the computer system (See Diagrams, refer to the arcs, and see p.1-2, sec. 1 Messages – e.g.

ACK/NAK).

As per claim 55: Regarding limitation, Claimed limitation has the functionality corresponding to

the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-

54, 61.

As per Claim 58: Claimed limitation has the functionality corresponding to the functionality of

Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 60: Claimed limitation has the functionality corresponding to the functionality of

Claims 53-54, 61. Rejection has the same rationale as set forth Claims 53-54, 61.

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The

examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is

assigned is the Central Facsimile number 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be

directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of

an application may be obtained from the Patent Application Information Retrieval (PAIR)

system. Status information for published applications may be obtained from either Private PAIR

or Public PAIR. Status information for unpublished applications is available through Private

PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov.

Should you have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

TTV
May 08, 2008

/Ted T. Vo/
Primary Examiner, Art Unit 2191